

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

CRIMINAL No. 06-0344 LH

JOSEPH MILES DAVIS,

Defendant.

**MEMORANDUM OPINION AND ORDER**

THIS MATTER is before the Court on Defendant's *pro se* letter (ECF No. 216), filed March 2, 2015, which the Court construes as a Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2), and the United States' Motion for Order of Ineligibility for Reduced Sentence Under 18 U.S.C. § 3582(c)(2) Regarding Drug Quantity Table (ECF No. 220), filed December 2, 2015. Counsel for Defendant was appointed on February 5, 2015. Having reviewed the Motions, the record in this matter, and the relevant law, and otherwise being fully advised, the Court finds that the government's Motion will be **granted** and Defendant's Motion will be **denied**.


The United States contends that Defendant is ineligible for resentencing because he was sentenced as a career offender, pursuant to U.S.S.G § 4B1.1, not the Drug Quantity Table under U.S.S.G. 2D1.1, and therefore, Amendment 782 does not affect his sentencing range. Defendant takes no position on the government's Motion. Mot. Concerning Ineligibility ¶ 5.

The Court finds the United States' argument well taken. *See, e.g., United States v. Gray*, \_\_\_ F. App'x \_\_\_, 2015 WL 6468029, at \*3 (10th Cir. Oct. 27, 2015) ("Although Amendment 782 retroactively reduces base-offense levels corresponding to the same weight of controlled substances listed in U.S. Sentencing Guidelines Manual § 2D1.1, it has no effect on sentences like [defendant's]-those calculated by applying § 4B1.1, the career-offender guideline."); *United States v. Sharkey*, 543 F.3d 1236, 1239 (10th Cir. 2008). Furthermore, because Defendant's original sentence was not based on a sentencing range that has subsequently been lowered by the Sentencing Commission, this Court lacks jurisdiction even to consider his Motion on the merits, and his Motion must be dismissed. *See, e.g., United States v. White*, 765 F.3d 1240, 1246 (10th Cir. 2014).

WHEREFORE,

**IT IS HEREBY ORDERED** that the United States' Motion for Order of Ineligibility for Reduced Sentence Under 18 U.S.C. § 3582(c)(2) Regarding Drug Quantity Table (ECF No. 220), filed December 2, 2015, is **GRANTED**.

**IT IS FURTHER ORDERED** that Defendant's *pro se* Motion for Reduction of Sentence Pursuant to 18 U.S.C. § 3582(c)(2) (ECF No. 216), filed March 2, 2015, is **DISMISSED FOR LACK OF JURISDICTION**.

  
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SENIOR UNITED STATES DISTRICT JUDGE